

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

WRIT PETITION NO. 1159 OF 1992

Shri Nivrutti Rama Shirke
Age Adult, Occ. Labour
R/o. Belwandi, Tq. Shrigonda
District Ahmednagar

...Petitioner

Versus

Shri Raghunath Bajirao Shirke,
Age adult, Occ. Agriculture,
R/o. Belwandi, Tq. Shrigonda,
District Ahmednagar

...Respondents

.....

Mr. K.D. Bade Patil, advocate for the petitioner

Mr. Vikramsinh P. Patil h/f Mr. V.D. Hon, advocate for respondent

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CORAM: S.V. GANGAPURWALA, J.

DATED: 29TH JULY, 2011

JUDGMENT:-

- 1 Heard learned counsel for the respective parties.
- 2 The certificate issued to the present respondent under Section 32-M of the Bombay Tenancy and Agricultural Lands Act was assailed by the present petitioner before the Sub Divisional Officer, Parner, who dismissed the appeal. Thereafter, the said order was assailed before

the Maharashtra Revenue Tribunal, Pune by filing Revision. The Maharashtra Revenue Tribunal also dismissed the revision. Aggrieved, thereby the petitioner has filed the present writ petition.

3 Shri K.D. Bade Patil, learned counsel for the petitioner submits that the Courts below have failed to take into consideration the factum that the father of petitioner was of unsound mind. The evidence in this regard and more particularly the certificate dated 1.8.1989 issued by Dr. Khisti is not at all considered by the courts below. The learned counsel contends that the Courts were expected to appreciate the said certificate in its correct perspectives. A suo motu proceedings were initiated by the authority under Section 32-G and had determined the purchase price. The proceedings were taken up against the same. The learned counsel further contends that the courts were duty bound to consider the certificate showing that the father of the petitioner was of unsound mind at the relevant time.

4 Shri Patil, learned counsel supports the judgment and contends that the courts below have concurrently come to the conclusion on appreciation of evidence that the father of the petitioner was not of unsound mind. The attending circumstances have also been taken into consideration.

5 With the assistance of the learned counsel I have gone through the judgments. Both the courts have considered that the certificate produced by the petitioner so also the attending circumstances. It has been observed by the courts that the certificate dated 1.8.1989 produced by the applicant before the Revisional Court is of different kind than certificate given by the Doctor on 1.4.1957. The earlier certificate mentions that he was a patient of mental disorder. The subsequent certificate is tried to be negated by public notice given in Daily Nava Maratha dated 16.11.1967 and by the affidavit of Dr. Khisti before the senior clerk in the court of learned C.J.S.D. Ahmednagar, it was mentioned in the certificate dated 1.4.1957 that Rama Shirke was of suspecting mental disorder and not a patient of mental disorder. The statement given by deceased Rama Shirke was also considered by the court. After perusing the statement, the learned Member was satisfied that the said statement does not indicate any insanity or mental disorder. In the statement, it was stated by deceased Rama Shirke that he had leased out the land at ₹ 50 before to 6 to 7 years of statement recorded in 1961 and details of the said statement have been taken into consideration.

6 All the above facts shows that the authorities have taken into consideration the attending circumstances.

7 In view of the above, the judgment delivered by the authorities cannot be faulted with. The writ petition as such dismissed. Rule discharged. No costs.
